

Dept. of Personnel Admin.
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PERSONNEL ADMINISTRATION RULES

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PERSONNEL ADMINISTRATION RULES (PAR)

PAR.01 Scope and Purpose

The Rules set forth by the administrator establish standards for the conduct of the civil service merit system of employment. In addition, these rules include standards governing state employment apart from civil service where rule-making is required of the administrator by statute. They are intended to provide a system of uniform standards implementing applicable law for use by appointing authorities in the employment processes of recruitment and examination of applicants for public service positions, selection among applicants for appointment and promotion, performance evaluation and layoff.

PAR.02 Definitions

Within the Personnel Administration Rules, unless otherwise expressly provided or the context otherwise requires, the following words and phrases shall have the following meanings:

Administrator, the Personnel Administrator of the Department of Personnel Administration.

Appointing authority or appointing officer, any person, board or commission having the power of appointment or employment.

Appointments, in respect to the several types of civil service appointments, as follows:

- (a) Emergency appointment, an appointment made for a specified time without requisition to cover unforeseeable circumstances.
- (b) Intermittent appointment, an appointment from an eligible list to recurrent employment which may be regular or irregular as the needs of the service require.
- (c) Permanent appointment, an appointment or promotion made to fill a permanent vacancy in a permanent position after certification for appointment by the administrator.
- (d) Provisional appointment, an appointment approved by the administrator following the filing of a requisition until a suitable eligible list is established, and until an appointment can be made from a certification from such eligible list.
- (e) Temporary appointment, an appointment to a tem-

porary position or for the duration of a temporary vacancy, after certification from an eligible list.

Appointment, to positions not within civil service, is appointment to a temporary or permanent position classified pursuant to M.G.L. c. 30, s. 45, of a person who meets the qualifications for the position established by the administrator pursuant to M.G.L. c. 30, s. 45.

Basic merit principles:

- (a) recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment;
- (b) providing of equitable and adequate compensation for all employees;
- (c) providing of training and development for employees, as needed, to assure the advancement and high quality performance of such employees;
- (d) retaining of employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;
- (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in M.G.L. c. 31 and constitutional rights as citizens, and;
- (f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

Certification, the designation to an appointing authority by the administrator, pursuant to the civil service law and these rules, of the names of persons from an eligible list or register who qualify for appointment to civil service positions.

Civil service, the merit system provided by M.G.L. c. 31 and these rules for filling such positions in state and municipal government.

Civil service employee, a person appointed to a civil service position on a temporary or permanent basis after certification.

Civil service position, a position subject to all the requirements of the civil service law.

Class, a group of positions sufficiently similar in respect to the duties and responsibilities thereof that the same or similar requirements are demanded of

incumbents; used interchangeably with "title," except in the labor service.

Commission, the Civil Service Commission. The Commission is an administrative appellate forum authorized to:

- (a) investigate all aspects of administration and implementation of the civil service system on its own initiative or upon request of others, as specified in M.G.L. c. 31, s. 2(a);
- (b) review all decisions, actions, or failures to act by the administrator, which cause actual harm to a person's employment status in violation of the civil service statutes, as specified by M.G.L. c. 31, s. 2(b);
- (c) approve or disapprove adoption of new or amended rules of the administrator, pursuant to M.G.L. c. 31, s. 4;
- (d) approve classification plans for cities and towns pursuant to M.G.L. c. 31, s. 5(b);
- (e) hear appeals of decisions of performance evaluation panels pursuant to M.G.L. c. 31, s. 6C(c);
- (f) review aspects of the civil service examination procedure under M.G.L. c. 31, s. 24;
- (g) hear appeals of tenured employees concerning discharge, removal, suspension, layoff, transfer, lowering in rank or compensation, or abolition of positions, all pursuant to M.G.L. c. 31, ss. 41-45, and punishment duty pursuant to M.G.L. c. 31, s. 62;
- (h) review denials of step increases to non-union employees pursuant to M.G.L. c. 30, s. 46(4);
- (i) review the decisions of the administrator concerning classifications of state managers and employees, pursuant to M.G.L. c. 30, s. 49;
- (j) review decisions of the administrator rendered under the informal grievance procedure contained in M.G.L. c. 30, s. 53;
- (k) approve or disapprove proposed actions of the administrator pursuant to Chapter 534 of the Acts of 1976.

Compensation, the rate of wages or salary paid to an employee in accordance with an authorized and established classification and pay plan.

Departmental unit, a board, commission, department, or any division, institutional component, or other component of a department where established by law, ordinance, or bylaw.

Discharge, the permanent involuntary separation from the service of an officer or employee.

Eligible list, a list established by the administrator in accordance with M.G.L. c. 31 from which certifications are made to appointing authorities upon requisition.

Entrance requirements, the prerequisites which an applicant must satisfy to be eligible to take an examination.

Entry level, a position having a title which is the lowest in a series of titles in a municipal or state classification plan, whether or not higher titles in the same job series exist in the same department.

Essay question, a question on a written examination that requires a response composed by the applicant, in the form of one or more sentences, and for which no single answer is correct and all others categorically wrong. Essay questions shall not include multiple-choice, true or false, matching or short answer completion questions for which only one answer is correct.

Examination, any instrument or process which, consistent with the civil service law and these rules, measures the fitness of applicants to perform the duties of a position. Types of examinations described in terms of eligibility include:

- (a) Competitive promotional examination, any competitive examination which is open, pursuant to M.G.L. c. 31, s. 11, to certain civil service employees of the Commonwealth, or of a city, town, or district where the promotion is to be made.
- (b) Departmental promotional examination, any competitive examination for which eligibility is limited pursuant to M.G.L. c. 31, s. 9 to civil service employees in certain lower titles in a departmental unit.
- (c) Departmental promotional qualifying examination, any examination held on a non-competitive basis, to demonstrate that the person selected for promotion, pursuant to M.G.L. c. 31, s. 8, possesses the qualifications and abilities necessary to perform the duties of the higher position.
- (d) Executive office promotional examination, any competitive examination within an executive office which is open to employees of an entire executive office who qualify for such examination pursuant to M.G.L. c. 31, s. 10.
- (e) Open competitive examination, any examination for an original appointment which is open to all members of the public who meet entrance requirements.
- (f) Open continuous examination, an open competitive examination, held from time to time at the discretion of the administrator, for which application is open to the public on a continuous basis.
- (g) Qualifying examination, an examination given to test the qualifications of an incumbent whose position is placed under civil service by law or rule, or an examination given to an individual to qualify for promotion, as provided in M.G.L. c. 31, s. 8.

Handicap, any condition or characteristic, physical or mental, which substantially limits one or more major life activities; a record of such impairment; a condition or characteristic which is regarded as such impairment.

Labor service, the composite of all civil service positions whose duties are such that a suitable selection for such positions may be made based upon registration pursuant to M.G.L. c. 31, s. 28, rather than by competitive examination.

Layoff, as to civil service employees, temporary discontinuance of employment due to lack of work or lack of money, or abolition of position.

Local labor service director, a person designated to that title by the municipal appointing authority for the purpose of exercising powers and performing the duties in accordance with PAR.20 of these rules.

Merit preference status, a status afforded preference in civil service appointment pursuant to M.G.L. c. 31, for example section 26:

- (a) sons or daughters of certain deceased firefighters or police officers as to public safety positions,
- (b) disabled veterans,
- (c) blind persons following disabled veterans in appointments of typists to take dictation solely from dictation machines,
- (4) veterans,
- (5) widows or widowed mothers of veterans who died from service-connected disabilities.

Performance evaluation, an evaluation of an employee's performance in accordance with the standards outlined in M.G.L. c. 31, ss. 6A-6C, inclusive.

Position, with respect to employment within the executive department of the Commonwealth, a set of duties classified with an appropriate title by the administrator pursuant to M.G.L. c. 30, s. 45 and scheduled under the .01 subsidiary of M.G.L. c. 29, s. 27 if a permanent position or scheduled under the .02 subsidiary of M.G.L. c. 29, s. 27 if a temporary position.

Promotion, a change in employment from one title to a higher title in the same series, or to a title in a different series when the new title has substantially dissimilar requirements which prevent a transfer.

Reinstatement, the restoration to employment of an employee made in accordance with civil service law and these rules, in particular in accordance with M.G.L. c. 31, ss. 39 or 46.

Requisition, a formal notice by an appointing authority to the administrator that a vacancy exists, or will exist, and including a request that the administrator take such action as is set forth on the requisition form to fill the vacancy pursuant to civil service law and these rules.

Resignation, a permanent voluntary separation from service.

Roster, a list of permanent civil service employees in a departmental unit, arranged according to seniority, and supplemented by a list of employees appointed on a temporary or provisional basis.

Rules, the Rules promulgated by the administrator.

Seasonal position, a position requiring the services of an incumbent, on either a full-time or less than full-time basis, beginning no earlier than May first and ending no later than September thirtieth or beginning no earlier than November first and ending no later than April first in any twelve-month period; provided, however, that the following positions shall not be deemed to be seasonal:

(a) a position in the police force or fire force of a city or town;

(b) a position in the Capitol Police Force, or in the Police Force of the Metropolitan District Commission, and;

(c) a permanent position for which funds have been appropriated or are available on a permanent basis.

Notwithstanding any provision of this chapter to the contrary, a position of police officer in a police department within the counties of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth and Suffolk employed on either a full-time or less than full-time basis, beginning not earlier than May first and ending no later than September thirteenth shall be deemed to be a seasonal position and shall be exempt from the provisions of M.G.L. c. 31.

Suspension, a temporary involuntary separation of a person from his civil service employment by the appointing authority.

Tenure, the status of an employee in a civil service position to which he has received a permanent appointment, after completion of the required probationary period, or in a civil service position to which he has been permanently promoted; the status of an employee appointed permanently to a non-civil service position in which he has established tenured status pursuant to M.G.L. c. 30, ss. 9A, 9B, 9D or other statutory provision.

Transfer, the change in title of an employee to a title for which specifications show essentially identical qualifications and duties; a change from a position in a title in one departmental unit to a position in the same title in a different departmental unit.

Unauthorized absence, an absence from work for a period of more than fourteen calendar days for which no notice has been given to the appointing authority by the employee or by a person authorized to do so, and which may not be charged to vacation or sick leave, or for which no leave was granted pursuant to the provisions of M.G.L. c. 31, s. 37.

PAR.03 Qualifications for Employment

(1) As a consideration for initial selection, the Administrator may, consistent with applicable law, establish age, height, strength, weight or any other job-related criteria as qualifications for positions when the need of the public service so requires.

(2) Good character is an essential qualification for all levels of employment and may be grounds for disqualification from an eligible list.

(3) The burden of proof of good character shall in all cases be upon the applicant, who may be required by the Personnel Administrator to furnish evidence additional to the information required to be stated in his application.

(4) The Personnel Administrator may cancel an application, suspend the same pending investigation, exclude an applicant from examination, refuse to certify an eligible candidate, remove his name from any eligible list, or declare his appointment invalid upon proof of any of the following conditions:

(a) Dismissal of the applicant or eligible from the public service, or his resignation pending charges.

(b) Criminal, infamous, dishonest, immoral, notoriously disgraceful, dissolute, or bad conduct or character.

(c) The knowingly making of a material false statement by any person in his application or in his examination, and any connivance by him at any material false statement made in any accompanying certificates, or the commission of or attempt to commit any fraud against civil service law or rules, or any complicity by or benefit to him in any such fraud, before, during, or after any examination.

(d) Whenever it appears to the administrator, from the application or from the record of any physical examination, or from any investigation made by the administrator, and whether before or after acceptance

of the application or after appointment, that the applicant is not qualified.

(5) If the administrator declares invalid the inclusion of a name on an eligible list, the appointment, or other employment act, he shall:

(a) Notify in writing the appointing authority, or employment office, department, board or commission of such person.

(b) Notify in writing the treasurer, auditor or other officer whose duty it is to pay the salary or other compensation of such person.

(c) Notify said officer that the payment of any salary or compensation to such person shall cease at the expiration of one week after the mailing of notice to such treasurer, auditor or other officer, and that such officer shall pay no further salary or compensation to such person until the legality of employment or appointment is duly established.

(d) Afford to each employee holding a civil service appointment an opportunity to be heard before declaring such civil service appointment invalid.

PAR.04 Recruitment (reserved)

PAR.05 Examination Fees

(1) Time of Payment.

Applications for open competitive examinations shall be accompanied by payment of the fee stated on the examination poster.

(2) Form of Payment.

Payment in the form of bank (cashier's) check or postal money order will be accepted.

(3) Waiver of Examination Fee.

Examination fee is waived for applicants who are receiving public assistance, either state or federal. An applicant seeking waiver of fee shall indicate in the space provided on the application form the information required to establish eligibility for waiver.

PAR.06 Civil Service Examinations

(1) Procedure

(PAR.06(1)(a) through PAR.06(1)(c) Reserved *)

(d) Applications of persons for whom requisitions for employment have been made in accordance with the provisions of the fourth paragraph of M.G.L. c. 31, s. 26 shall be in the same form as required for all other applicants for positions for which employment is requested.

(2) Physical Examinations

(PAR.06(2)(a) through PAR.06(2)(c) Reserved *)

CIVIL SERVICE RULES

EXAMINATIONS

Civil Service Rule 8.

1. The Personnel Administrator shall establish procedures to hold open competitive and other examinations to test the practical fitness of applicants.

2. The grading of the subject of training and experience as a part of a competitive examination shall be based on a schedule prepared by the Personnel Administrator which shall include credits for elements of training and experience related to the position for which the examination is held.

3. An applicant may be allowed to take an examination subject to later review to determine if he meets the minimum entrance requirements. If it is determined that an applicant does not meet the minimum entrance requirements, as set forth on the poster for the office or position, he shall be declared ineligible by the Administrator.

CIVIL SERVICE RULES

PHYSICAL EXAMINATIONS

Civil Service Rule 9.

1. Any applicant who shall have passed a physical examination or test of physical fitness may, before certification, be required to undergo such further physical examination or test of physical fitness as the Personnel Administrator may prescribe.

2. When a physical examination or test of physical fitness is ordered and an applicant fails to appear, the eligible list may be established notwithstanding; but the Personnel Administrator may for cause shown allow such applicant to take the physical examination or test of physical fitness at a later date. If the applicant subsequently passes such a physical examination or test of physical fitness, his name will be placed on the eligible list in accordance with the provisions of the Civil Service Law and Rules.

3. The examining physician shall make a report of the physical condition of the applicant, and the Personnel Administrator shall have discretion to accept or reject any applicant in accordance with the degree of disability found to exist. This applies to police and fire as well as to all other applicants; provided, however, that the standards shall not be waived or dispensed with in the case of any applicant.

* PAR.06(1)(a)-(c) and PAR.06(2) have been reserved due to the disapproval of the Civil Service Commission on June 1, 1984, pursuant to M.G.L. c. 31, s. 4, of proposed PAR.06. Thus the rules issued by the Civil Service Commission concerning the subject matter of proposed PAR.06 continue unchanged.

PAR.07 Civil Service Eligible Lists

(1) The examination papers of persons examined for appointment and promotion shall be marked and graded, and the results recorded. Separate eligible lists may be kept of those seeking to enter any part of the service in which special qualifications are required.

(2) Any person whose appointment has been legally made or authorized from the eligible list under these rules, and whose service has been terminated without fault or delinquency on his part during the probationary period, may, upon his request in writing made within six months from the date of termination of his service and if the eligible list from which he was appointed has not expired, have his name restored to the eligible list for the remainder of the period of validity of the list from which he was appointed.

(3) When eligible lists for the same position are established as the result of open competitive and promotional examinations, names shall be certified first from the promotional examination, second from the reemployment list if the administrator has established such a list pursuant to M.G.L. c. 31, s. 40, third from the list established from the open competitive examination.

(4) The examination marks shall be presented on eligible lists in whole numbers.

PAR.08 Civil Service Requisition and Certification

(1) Whenever any appointing authority shall make requisition to fill a position, the Personnel Administrator shall, if a suitable eligible list exists, certify the names standing highest on such list in order of their place on such list, except as otherwise provided by law or civil service rule. Insofar as possible, sufficient names shall be certified to enable such appointing authority to make appointments from among the number specified in PAR.09.

(2) Unless an appointing authority shall, within three weeks of any certification of names to him by the administrator, make and notify the administrator of an appointment from the names certified, the certification shall become void; provided, however, that the administrator, in his discretion, may limit or extend the term

of any certification, or ratify any appointment made from such certification.

The administrator, however, may before or after an appointment has been made cancel a certification, if he finds that the certification was made in error, or that any person certified was placed on the eligible list through mistake or fraud; and, if a person has been appointed from such certification, he may revoke his appointment and order his discharge. No person, however, shall be deemed to have been appointed or promoted to any position requiring certification by the administrator from an eligible list unless the appointing officer, prior to the date of expiration of such eligible list, shall have notified the administrator in writing that such person has been so appointed or promoted.

(3) If a requisition is made calling for persons having special qualifications in addition to the general qualifications tested by an examination, the administrator may issue a selective certification of the names of such persons from the appropriate eligible list.

(4) If a requisition is made to fill vacancies in a title for which no eligible list exists, the administrator may certify from a suitable list established to fill positions in a different title with similar specifications.

(5) The administrator shall place on the eligible list below the names of disabled veterans as defined in M.G.L. c. 31, s. 1, the names of blind persons for employment by any state department, board or commission in the office or offices of which dictating machines are used of typists to take dictation solely from such machines and shall certify the names of such persons upon receipt of requisition. The administrator may require appointing authorities to identify those requisitions filed to fill positions in accordance with M.G.L. c. 31, s. 3(g).

(6) Upon receipt of a requisition for full-time service, the names of intermittent, recurrent, part-time and reserve employees appointed on a permanent basis shall be certified, in accordance with these rules regarding certification, to a position with the same title in the same department or division of a department. The basis of certification shall be the order of appointment to the permanent intermittent, permanent recurrent, permanent part-time or permanent reserve position with the same title in the department or division of a department for which requisition is made; provided, that any person so appointed shall serve a full probationary period after appointment to a full-time position.

(1) When names have been certified to an appointing authority under PAR.08 and the number of appointments actually to be made is n , the appointing authority may appoint only from among the first $2n + 1$ persons named in the certification willing to accept appointment, e.g.,

when the number
of appointments
to be made is:

1
2
3
4
5

the appointing authority
may appoint only from
among the first

3
5
7
9
11

persons named in the
certification willing
to accept,

provided that when more than one appointment is being made, the first appointment shall be made from among the first three persons whose names are certified and who are willing to accept, the second appointment shall be made from among the first five persons whose names are certified and who are willing to accept, the third appointment shall be made from among the first seven persons whose names are certified and who are willing to accept, and so forth. For the purposes of this section, "appointments" shall include promotions.

(2) If an appointing authority concludes the appointment of a person whose name has been certified to it would be detrimental to the public interest, it may submit to the administrator a written statement giving in detail the specific reasons substantiating such a conclusion. The administrator shall review each such statement, and if he agrees, he shall remove the name of such person from the certification and shall not again certify the name of such person to such appointing authority for appointment to such position. For the purposes of this section, "appointments" shall include promotions.

(3) No person shall be regarded as appointed to a full-time position within the requirements of these rules unless he accepts the position and is actually employed within thirty days from the date of receipt of notice of appointment; extension will be allowed at the discretion of the administrator, for enrollment in a training program required by law.

(4) If additional names are certified to an appointing authority under the provisions of PAR.10, said appointing authority may appoint by selecting from among the number of persons specified in PAR.09(1) and from among a like number of persons whose names have been certified under the provisions of said PAR.10.

PAR.10 Special Certifications in the Civil Service

(1) Prerequisites for special certifications based on race, color, national origin or sex shall be made whenever:

(a) an appointing authority shall make requisition to fill one or more positions included in said appointing authority's affirmative action plan on file with the administrator, and;

(b) the administrator has made a written determination substantiating that previous practices of the department and/or of said appointing authority with respect to the filling of such position or positions have discriminated against members of a group, hereinafter referred to as a protected group, on the basis of race, color, sex, or national origin in contravention of any provision of the Constitution of the United States or the Constitution of the Commonwealth, Title VII of the federal Civil Rights Act of 1964 (42 U.S.C. 2000e) or any other federal or state statute the administrator may then certify, in addition to names certified in accordance with PAR.09, the names of a like number of individuals who are members of the protected group and are on an eligible list for such position, in order of their standing.

(2) At least ten days prior to certifying names under the provisions of PAR.10(1), the administrator shall post a notice of his intention to do so in the offices of the Department of Personnel Administration and shall mail a copy of such notice to the appointing authority, with instructions to post copies of such notice at all locations where persons whose names may be certified under the provisions of section one may, if employed, be assigned.

(3) Prerequisites for special certifications of disadvantaged persons shall be made whenever:

(a) disadvantaged persons as defined by M.G.L. c. 31, s. 47A have passed an examination for the lowest title in a series as determined by the administrator, the names of such persons shall be placed upon a special eligible list ranked pursuant to M.G.L. c. 31, s. 26 as to an official service title or pursuant to M.G.L. c. 31, s. 28 as to a labor service title.

(b) in certifying names for appointment to a title for which a special eligible list is valid, the administrator shall certify names alternately from such eligible list and the regular eligible list based upon an open competitive examination for the position.

PAR.11 Temporary Appointment

(1) A person certified for temporary employment to a department in which temporary employment is regularly

recurrent at stated periods, may within one year from the cessation of such employment or within the next calendar year be again employed in such position.

(2) The acceptance by an eligible of a temporary appointment shall not affect his standing on the eligible list for permanent appointment.

PAR.12 Probationary Period

(1) The probationary period after permanent original appointment to a full-time civil service position and before tenured status requires six months of scheduled performance of the actual duties of such position except as otherwise provided by law.

(2) The probationary period may be extended by the appointing authority beyond the period provided by law by the actual number of days of absence during the statutory period; written notice of such extension shall be given to the employee prior to the expiration of the statutory probationary period.

PAR.13 Leaves of Absence

(1) A civil service employee seeking a leave of absence or renewal of same for a period longer than three months shall submit a written request for the leave or renewal to the appointing authority at least twenty-one days before the leave unless submission within such time period is impracticable.

(2) When an appointing authority requests prior approval of the administrator for an employee leave of absence or renewal of a leave of absence under M.G.L. c. 31, s. 37, for a period to exceed three months, such approval shall be requested at least fourteen days before the leave or renewal of leave of the employee is to commence unless request within such time period is impracticable. Said request shall be in writing. A copy of the request shall be delivered to the affected employee. If approval is granted, the written notice of said approval by the administrator shall be delivered to the applicant.

PAR.14 Civil Service Promotion

(1) The examination process approved by the administrator for establishment of a promotional eligible list of ranked candidates may consist of a written examination, an oral examination, a practical test, a graded performance evaluation, or a graded schedule of seniority of service. A combination of the foregoing or other graded components through a ranking process to determine merit may be proposed by the appointing authority and approved

by the administrator. The term seniority of service shall be interpreted to refer to service after certification in the department for which the examination is held.

(a) If training and experience is a component of the promotional ranking process, a schedule of training and experience shall include as experience all relevant work experience whether within or outside the department; such schedule shall include as training all relevant education. Nothing in this rule shall be deemed to limit the authority of the administrator to determine the weight and scope of examinations, as provided by law.

(2) In competitive examinations for promotion to any position in the classified official service, the administrator shall add two points to the general average mark obtained by any veteran, as defined in M.G.L. c. 31, s. 1, providing such veteran has first obtained a passing mark in said examination.

(3) No permanent employee shall be regarded as promoted within the requirements of these rules unless he is actually employed in the position to which he is promoted within thirty days from the date of receipt of notice of promotion. If, however, his promotion is approved by the administrator while he is serving temporarily in a position of the same or higher grade, he may continue to serve in such position as authorized by the administrator, and his permanent promotion shall not be affected by such temporary employment in a different grade notwithstanding the fact that he is not actually employed in the position to which he has been promoted during said thirty days.

PAR.15 Layoff from Civil Service Positions

(1) All civil service rights of an employee rest in the position in which he holds tenure.

(2) When one or more employees must be separated from positions in the same title and departmental unit due to lack of work, lack of money or abolition of position, all persons filling positions provisionally in the designated title must be separated first, followed by all persons filling positions in temporary status in the designated title, before any civil service employees holding the designated positions in permanent status shall be separated from such positions.

(3) When one or more civil service employees holding permanent positions in the same title and departmental unit must be separated from their positions due to lack of work, lack of money, or abolition of position, the employee with the least civil service seniority computed

pursuant to M.G.L. c. 31, s. 33 shall be separated first; provided that all disabled veterans are accorded the preference provided by M.G.L. c. 31, s. 26.

(4) When one or more persons among a larger group of civil service employees holding permanent positions in the same title and departmental unit are to be separated from their positions due to lack of work, lack of money or abolition of position, and the entire group has the same civil service seniority date, the appointing authority has the discretion to select for separation among those with equal retention rights, applying basic merit principles.

PAR.16 Performance Evaluation

- (1) Evaluation of managers in civil service positions
- (2) Evaluation of non-management civil service employees
 - (a) Evaluation during probationary period
 - (b) Evaluation in connection with selection for promotion
- (3) Evaluation of managers in non-civil service positions

PAR.17 Development of Training Programs by State Agencies (reserved)

PAR.18 Career Management Service (reserved)

PAR.19 The Labor Service Subject to the Civil Service Law

- (1) Designation of Labor Service Positions
 - (a) The provisions of these rules shall apply to all labor service employees in the service of the Commonwealth unless specifically exempted by law, and, subject to law, to labor service employees of the cities and towns.
 - (b) The administrator shall designate positions subject to the civil service law and these rules whose duties are such that suitable selection therefor may be made based upon registration in the manner provided by M.G.L. c. 31, s. 28. The composite of such positions shall constitute the labor service, which shall be subject to basic merit principles and the provisions of the foregoing Rules insofar as such Rules are not inconsistent with the following rules especially applicable to such service.
 - (c) The labor service shall be divided into three classes: (I) Laborers; (II) Skilled Laborers; (III) Mechanics and Craftsmen. The administrator shall establish suitable titles within each of these classes and shall provide for the registration of applicants and the establishment of registers

according to such titles. An appointing authority may, subject to law, fill positions in any class by original or promotional appointment.

(2) Original Appointment

(a) When positions are to be filled on a permanent or temporary basis in the labor service, the appointing authority shall make requisition to the administrator or to the local labor service director stating the title of the position to be filled on a full-time, intermittent or part-time basis, the number of vacancies, a description of the duties to be performed, the location, starting date and probable duration of employment, and the salary to be paid.

(b) When a requisition is received for temporary service, the employment of persons appointed shall continue only for the time stated in the requisition, unless the administrator or local labor service director shall otherwise direct. The requisition shall state the reason the vacancy is temporary.

(c) The administrator or local labor service director shall establish and maintain rosters for each departmental unit and by appropriate class containing the names, position titles and effective dates of employment of persons appointed to permanent or temporary labor service positions in the service of the commonwealth or of a municipality after certification from labor service registers. Separate rosters shall be maintained for full-time permanent, less than full-time permanent, full-time temporary, and less than full-time temporary positions.

(d) If the appointing authority requests in its requisition the certification of persons with experience in the department, preference shall be given in certification to all persons who have served at least one year after certification in such department in the same title for which requisition is made, provided such persons have not been discharged for cause or have not resigned with charges pending. If such service was performed on an intermittent or part-time basis, the appointing authority shall submit proof that such persons have accrued employment equivalent to one year of full-time employment.

(e) Selection and original appointment shall be made as provided in PAR.09.

(f) The administrator may establish minimum requirements, including experience requirements, in addition to those imposed by statute for Class II and Class III positions; the administrator or local labor service director may also require a practical test to determine the qualifications of applicants for such positions.

(g) The administrator or local labor service director may require applicants to undergo physical examination

to determine their fitness to perform the duties of positions for which they apply.

(h) The appointing authority shall, within the time indicated on the certification, report to the administrator or the local labor service director, in a form prescribed by the administrator, which of the persons certified have been selected for original appointment. The appointing authority shall, at the same time, submit appointment forms supplying such information as the administrator may require.

(3) Removal From and Restoration to the Register

(a) If any person certified fails to respond, declines the employment offered, or fails to report for work after signifying his willingness to accept the position, the appointing authority shall so inform the administrator or local labor service director, and the name of such person shall be removed from the register. If an applicant whose name is registered for more than one title accepts a permanent appointment to any position in the labor service, the administrator or the local labor service director shall remove his name from the register for any other title in the same or a lower class.

(b) In case any applicant is found by the administrator or the local labor service director to be unfit or unqualified pursuant to the standards of PAR.03 to perform the duties of the position which he seeks, his name shall not be entered on the register and the register for the position may be established notwithstanding; and, if on the register, it shall be removed therefrom after written notification and the opportunity for hearing, and the reason shall be entered on the records of the administrator or the local labor service director.

(c) No person whose name is removed from a register for any other reason set forth in these rules shall have his name restored to the register unless he makes request in writing and provides a satisfactory written explanation to the administrator or local labor service director; such request must be made within six months of the removal date.

(4) Provisional Appointments

(a) Whenever the administrator or local labor service director is unable to provide an appointing authority with a certification of names from which to fill a requisition, he may authorize the appointing authority to make a provisional appointment of a veteran as defined in M.G.L. c. 31, s. 1, pending the establishment of a register for the position. The appointing authority shall forthwith notify the administrator or local labor service director in writing of his selection for such provisional appointment in a form prescribed by the

administrator.

(b) A provisional appointment may be terminated by the administrator or local labor service director at any time; provided that no provisional employment in a position shall be authorized or continued for more than thirty days following a certification from the register established for the position if such certification contains the names of three persons willing to accept appointment to the position.

(5) Promotional Appointments

(a) Promotional appointments and changes of position under the provisions of M.G.L. c. 31, s. 29 shall be made from among the same number of persons with the greatest length of service as the number specified in making appointments under PAR.09, provided that such persons possess the required qualifications and serve in eligible titles, as determined by the administrator. If there are less than the requisite number of persons, selection may be made from the lesser number. One year shall be added to the length of service of veterans, as defined in M.G.L. c. 31, s. 1, for the purpose of computing length of service in connection with promotional appointments.

(b) The appointing authority shall report each promotional appointment to the administrator or the local labor service director in a form prescribed by the administrator and shall certify that such promotion is in accordance with the civil service law and these rules.

PAR.20 Delegation of Labor Service Functions to Cities and Towns

(1) Local Labor Service Director.

The mayor, city or town manager, or board of selectmen in each city or town in which labor service positions are subject to the provisions of the civil service law and these rules shall designate in writing to the administrator a local labor service director who shall continue in such capacity until such time as another person is so designated.

(2) Publication of Vacancies.

Each such local director shall, not less than once every twelve months, publish a notice in a weekly or daily newspaper of general circulation in his city or town advising the public of the existence of a labor service in such city or town and of the manner in which application may be made for original appointment to positions in such service. If a vacancy occurs in a position in such service for which there are no available applicants registered, such local director shall advertise and post a notice or notices of such vacancy,

as prescribed by the administrator, inviting applications for such position.

(3) Application.

Said local director shall receive applications from, and make provision for the registration of, applicants for positions in the labor service in his city or town in the manner provided by the civil service law and these rules and as may be further required by the administrator.

(4) Requisition.

Appointing authorities in each such city or town shall make requisition to fill positions in the municipal labor service to the local labor service director, according to the civil service law and these rules and in such manner as may be prescribed by the administrator.

(5) Certification.

Each such local director shall, upon receipt of a requisition, certify to the appointing authority the names of persons eligible for original appointment as provided by the civil service law and these rules. Each appointing authority shall select persons for original appointment from among such names in the manner provided by such law and rules.

(6) Record-Keeping.

Each such local director shall maintain rosters of labor service employees, by class, for each departmental unit in his city or town in the manner specified by M.G.L. c. 31, s. 71 and PAR.19(2)(c).

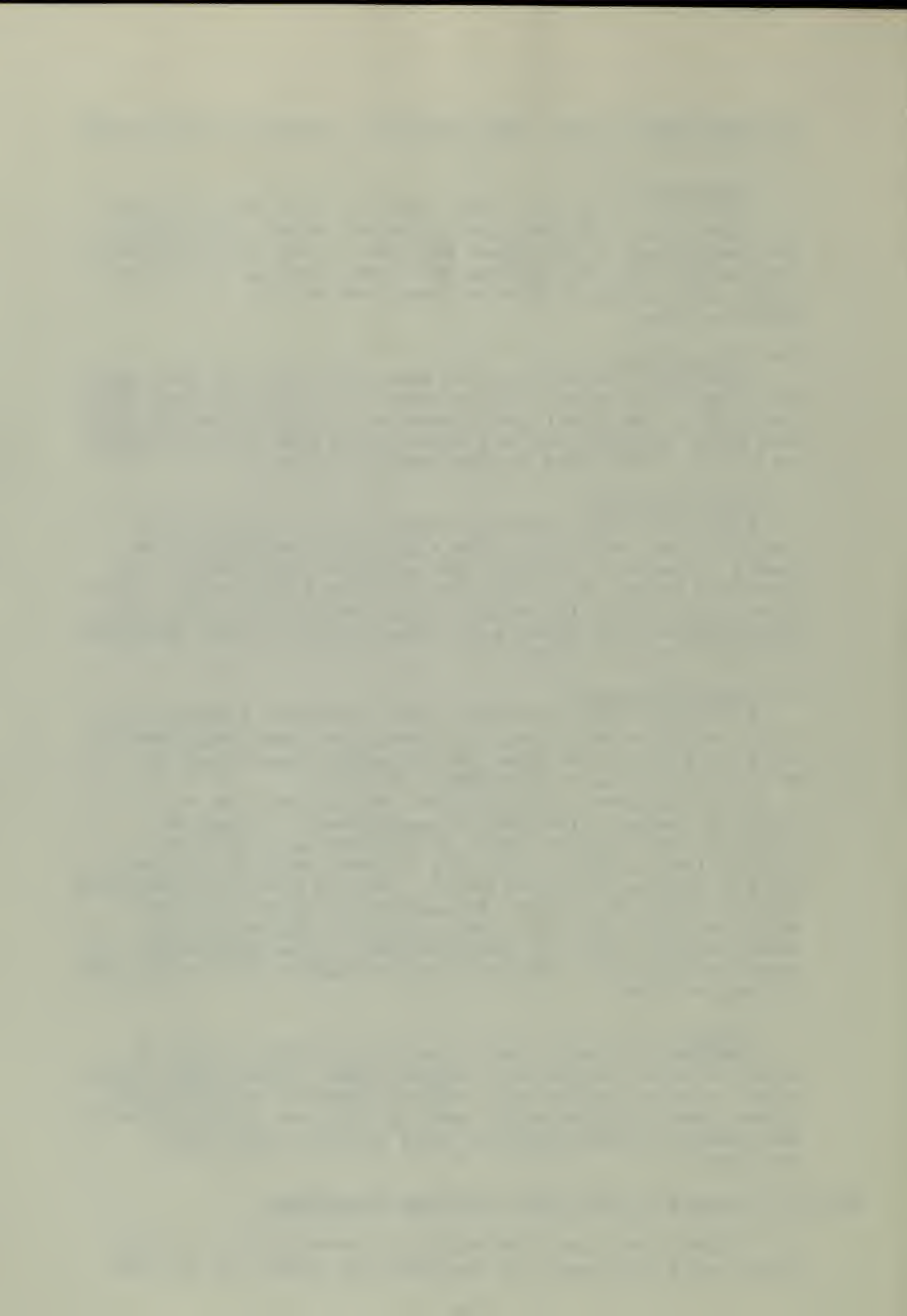
All registers, requisitions, certifications and reports thereon, records of appointment, or copies thereof, and rosters shall be readily available for public inspection at the city or town hall or offices during regular business hours. Notice shall be posted at the location where such documents are made available advising applicants of their right to appeal to the Administrator and, if they continue to be aggrieved, to the Civil Service Commission with respect to any alleged irregularities.

(7) Audit.

The Administrator shall perform a random audit of applications, registers, requisitions, promotional bulletins, certifications and reports thereon, original and promotional appointments, and rosters not less than every six months in each city or town to which this rule applies.

PAR.21 Appeals to the Civil Service Commission

(1) Appeals may be filed with the commission in accordance with any grant of jurisdiction under the General



Laws or special act, as outlined in PAR.02(11).

(a) Appeals under M.G.L. c. 31, s.2(b) must meet the following criteria:

(i) the appellant must make specific allegations in writing that the administrator acted, failed to act, or rendered a decision which was in violation of M.G.L. c. 31, these rules, or basic merit principles as defined in M.G.L. c. 31, s. 1;

(ii) the appellant must, by said allegations, clearly show that a right or rights under M.G.L. c.31 was or were clearly abridged, denied, or prejudiced due to the aforesaid action, failure to act, or decision in such a manner as to cause actual harm to the appellant's employment status; said allegations must make specific reference to the provision of law, rule, or basic merit principle which was violated;

(iii) a copy of the appeal notice must be filed with the administrator within three days of the filing of the appeal notice with the commission.

(b) Appeals under M.G.L. c. 31, s. 24 must meet the following criteria:

(i) the appeal must relate to the marking of the appellant's answers to essay questions, a finding that the appellant did not meet entrance requirements for the examination, or that the examination was not a fair test of the applicant's fitness to actually perform the primary or dominant duties of the position tested for;

(ii) the appeal must be filed within seventeen days of the mailing of the administrator's decision to the applicant.

(c) Appeals under M.G.L. c. 30, s. 49, relating to classification, shall be heard on a de novo basis.

(2) These rules are not intended to limit the authority of the commission to promulgate rules governing practice and procedure before it.

